

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

IN RE:

AMY LYNN HENDERSON

**09-82159
CHAPTER 7**

MOTION FOR ADEQUATE PROTECTION

COMES NOW American Home Mortgage Servicing, Inc. Servicer for HSBC Bank USA, National Association, as Trustee for Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2005-HE1 ("American Home Mortgage Servicing, Inc.") and respectfully shows the Court the following:

1. On December 3, 2009, the Debtor, Amy Lynn Henderson, filed a petition with the Bankruptcy Court for the Middle District of North Carolina under Chapter 13 of Title 11 of the United States Code. On August 31, 2011 the case was converted to Chapter 7.
2. On the date the petition was filed, the Debtor was the owner of real property with an address of 2713 Omah St, Durham, NC 27705 ("Property") and more particularly described in the Deed of Trust referred to below.
3. The Property is subject to the first lien of the Movant by Deed of Trust recorded in the Durham County Public Registry, ("Deed of Trust"), a copy of which is attached as "Exhibit 1".
4. The said Deed of Trust secures a Note in favor of Option One Mortgage Corporation, in the original principal amount of \$118,400.00, dated May 6, 2005 ("Note"), a copy of which is attached as "Exhibit 2".
5. On December 31, 2009 American Home Mortgage Servicing, Inc. filed a pre-petition arrears claim in the amount of \$20,324.02 and a total debt claim of \$133,233.32.
6. On February 22, 2010, the Trustee filed the first Notice and Proposed Order of Confirmation which proposed to cram down American Home Mortgage Servicing, Inc.'s claim and to modify the terms of the loan beyond the five year plan period. On February 26, 2010, American Home Mortgage Servicing, Inc. objected to confirmation. On January 25, 2011, this Court entered an order sustaining the objection to confirmation.
7. On January 26, 2011, the Debtor filed an amended plan which proposed to value the real property at \$108,000, to cram down American Home Mortgage Servicing, Inc.'s claim, and to pay the balance of the secured claim on or before the 60th month of the plan.
8. During the course of the Chapter 13 case, the debtor paid plan payments totaling \$19,762.00. The funds are currently being held by the Chapter 13 Trustee.

9. American Home Mortgage Servicing, Inc. received no disbursements from the Trustee or the Debtor.

10. The loan is contractually due for September 1, 2008 with total arrears through September 1, 2011 of approximately \$41,405.16.

11. The approximate payoff is \$164,491.06.

12. The scheduled value of the subject property was \$121,184.00.

13. Upon information and belief, there is a second lien deed of trust on the subject property in favor of Faslo Solutions, in the amount of \$28,900.00. Debtor has stated this on her Schedule D.

14. Because the Debtor has failed to pay any payments to American Home Mortgage Servicing, Inc. during the course of the Chapter 13 case, the Debtor had the full use and enjoyment of the property, and according to the debtor's valuation the property depreciated in value during the course of the Chapter 13, American Home Mortgage Servicing, Inc. is entitled to adequate protection pursuant to 11 U.S.C. Sec. 361.

15. This motion shall serve as notice to the Debtor that the movant will collect reasonable attorney fees and costs as allowed by the Note and Deed of Trust.

WHEREFORE, American Home Mortgage Servicing, Inc. prays the Court as follows:

1. Enter an Order requiring the Chapter 13 Trustee to disburse the funds on hand of \$19,762.00 to American Home Mortgage Servicing, Inc.

2. Grant American Home Mortgage Servicing, Inc. such other and further relief as may seem just and proper.

This the 26th day of September, 2011.

s/ Kimberly A. Sheek

Kimberly A. Sheek

N.C. State Bar No.: 34199

Attorney for Creditor

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Charlotte, NC 28216

704/333-8107

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing and annexed pleading or paper upon:

(Served via U.S. Mail)
Amy Lynn Henderson
2713 Omah St
Durham, NC 27705

(Served via Electronic Notification Only)
John T. Orcutt
6616-203 Six Forks Road
Raleigh, NC 27615

(Served via U.S. Mail)
Attn: Managing Agent
Faslo Solutions
PO Box 77404
Ewing, NJ 08628

(Served via U.S. Mail and Electronic
Notification)
John A. Northen
P.O. Box 2208
Chapel Hill, NC 27514

(Served via U.S. Mail)
Richard M. Hutson, II
Chapter 13 Office
302 East Pettigrew St., Suite B-140
P. O. Box 3613
Durham, NC 27702

See Exhibit "A"

by depositing the same in a postpaid wrapper properly addressed to each such party or his attorney of record in a post office or other official depository under the exclusive care and custody of the United States Postal Service and/or by electronic mail, if applicable.

This the 26th day of September, 2011.

s/ Kimberly A. Sheek
Kimberly A. Sheek
N.C. State Bar No.: 34199
SHAPIRO & INGLE, L.L.P.
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09-113704

North Carolina Department of Revenue
c/o NC Department of Justice
Post Office Box 629
Raleigh, NC 27602-0629

North Carolina Employment Security
Commission
Post Office Box 26504
Raleigh, NC 27611

Credit Bureau
Post Office Box 26140
Greensboro, NC 27402

NC Child Support
Centralized Collections
Post Office Box 900006
Raleigh, NC 27675-9006

Equifax Information Systems LLC
P.O. Box 740241
Atlanta, GA 30374-0241

Experian
P.O. Box 2002
Allen, TX 75013-2002

Innovis Data Solutions
Attn: Consumer Assistance
P.O. Box 1534
Columbus, OH 43216-1534

Trans Union Corporation
P.O. Box 2000
Crum Lynne, PA 19022-2000

ChexSystems
Attn: Consumer Relations
7805 Hudson Road, Ste. 100
Woodbury, MN 55125

Internal Revenue Service (MD) **
Post Office Box 21126
Philadelphia, PA 19114-0326

US Attorney's Office (MD) **
Middle District
Post Office Box 1858
Greensboro, NC 27502-1858

Absolute Collection Service **
421 Fayetteville Street Mall
Suite 600
Raleigh, NC 27601

American Express
Post Office Box 981535
El Paso, TX 79998-1535

American Home Mortgage
P O Box 631730
Irving, TX 75063

CitiFinancial
3823 Guess Road
Durham, NC 27705

Citifinancial
Post Office Box 499
Hanover, MD 21076

College Foundation
2917 Highwoods Boulevard
Raleigh, NC 27604-1021

Credit Bureau of Greensboro**
Post Office Box 26140
Greensboro, NC 27402-0040

Credit Financial Services
Post Office Box 451
Durham, NC 27702-0451

Dell Financial Services
c/o Customer Service Correspondence
Post Office Box 81577
Austin, TX 78708-1577

Durham County Tax Collector
Post Office Box 3397
Durham, NC 27701

Employment Security Commission
Attn: Benefit Payment Control
Post Office Box 26504
Raleigh, NC 27611-6504

Faslo Solutions
Post Office Box 77404
Ewing, NJ 08628

Home Depot Credit Services**
Post Office Box 689100
Des Moines, IA 50368-9100

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6616-203 Six Forks Road
Raleigh, NC 27615

Lowe's
c/o Encore Receivable Management, Inc.
400 N. Rogers Road
Post Office Box 3330
Olathe, KS 66063-3330

Medical Bills

North Carolina Department of Revenue
c/o Reginald S. Hinton
Post Office Box 25000
Raleigh, NC 27640-5000

North Carolina Dept of Revenue**
Post Office Box 1168
Raleigh, NC 27602-1168

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Santa Ana, CA 92799-5341